

# Irrigation canals raise questions of safety, liability

About 6-18-96

By DONALD W. MEYERS  
The Daily Herald

Irrigation canals are a common sight in Utah.

The waterways, ranging from simple ditches to concrete-lined waterways that extend for miles, provide the water necessary to turn desert wastes into productive farmland.

But, with the recreational lure of the canals, especially during summer months when the temptation to take a swim in the cool waters is overpowering, the canals can become deathtraps.

The danger has increased as more houses are being built around the canals.

While area residents want to see the canals, such as the Murdock Canal, secured to keep children away, owners and operators say responsibility for canal safety must be shared by everyone.

There have been at least three drownings in the portion of the Murdock Canal that passes through Orem in the past 18 years, Lt. Mike Larsen, police spokesman said. Larsen said he personally responded to two of them, a 3-year-old in 1978 and a 5-year-old in the late 1980s.

In each case, the youngster was playing near the canal and fell in. "Those things stick out,"

Larsen said.

To the casual observer, the canal looks like a quiet stream as it passes by.

But, Tamara Risley, a Bureau of Reclamation engineer, said the situation is quite different under the water.

Halfway between the surface and the bottom of the canal, the water moves very swiftly, up to 7 feet per second, Risley said in a paper prepared during the debate over bridging the Murdock Canal in Orem. Near the bottom, the water moves slowly and carries debris and garbage picked up as it cascades through the channel.

The mixture of speeds and underwater debris combine to quickly carry an unsuspecting victim away, sometimes holding them underwater.

The canals are also designed to keep water moving swiftly, which makes it next to impossible for someone to get out of the water. The banks of the canal are lined with concrete and angled twice as steep as a typical house roof.

For Orem resident Hillary Brown, the issue of canal safety struck close to home recently when her son was caught with his friends playing on the banks of the canal. While her son and his friends are OK, the incident gave



Daily Herald Photo/Jason Olson

Northridge Elementary School students Danny Koller and Cade Bradshaw cross the bridge over the Murdock Canal in Orem recently. Safety in and around local canals has always been a concern,

Brown reason to pause.

"That water is kind of scary right now," Brown said. Since

but increasing construction around the waterways has left many residents with an even more acute awareness of the safety dangers the canals can pose.

late April, water has flowed through the canal's 23-mile length from Provo Canyon north to Salt Lake County.

(See CANALS, Page A2)



caused by dangerous conditions associated with a canal," Deputy Orem City Attorney Greg Stephens wrote in his legal review of the issue. Stephens conducted that review when city residents demanded that locked gates be installed on the Murdock Canal bank when a bridge was built at 1200 North in 1995.

Residents living in the Country Creek subdivision argued that unlocked gates would allow children to wander on the canal bank, fall in and drown.

The Provo River Water Users Association and the U.S. Bureau of Reclamation said the gates had to be left unlocked to allow maintenance and emergency crews unimpeded access to the waterway. The PRWUA relied on the legal arguments waiving liability, plus the fact that the canal was there before the houses.

The issue was resolved when the city agreed to install mechanical gates.

The BOR and PRWUA officials say they are not insensitive to the concerns, but the groups have to balance safety against legal and budgetary concerns.

"We try to discourage it," Jay Henrie, manger of the U.S. Bureau of Reclamation's Resource Management division, said of people who come dangerously close to the canal.

The canals are posted as government property, and unauthor-

ized steps to warn children of the dangers posed by irrigation canals.

Last year, the bureau kicked off its "Otto Otter" safety program. Otto, an otter wearing an old-fashioned bathing suit, warns children of the dangers posed by canals and warns them to stay back.

The program consists of coloring books featuring Otto demonstrating water safety techniques, signs by the canal depicting Otto holding a stop sign and having a BOR employee dress up as Otto for school programs.

Otto also appeared in last year's America's Freedom Festival Grand Parade, riding with Smokey Bear and Woodsy Owl on a BOR float.

Henrie said the program is given at the request of local schools.

But Jerry Smith, assistant principal at Orchard Elementary School, where the program was first conducted last year, said Otto has not made an appearance this school year.

"We expected them," Smith said.

Gillman and Henrie said the best solution is to have all involved parties working together on common solutions.

"I personally think developers have a lot they can do. The city has control over developers," Henrie said.

Orem Senior Planner Bob Moore said the city requires developers building adjacent to canals

members of Hamas and the Islamic Jihad organization, said Ophir.

Also Saturday, Army radio reported that security forces arrested a group of Islamic militants last month who were planning a large-scale attack.

## Air Quality

The following information is taken from the Wasatch Front air pollution report compiled by the Utah Division of Air Quality. The Complete report is available by telephone at 1-800-228-5434.

### Overall air quality

The air quality as of mid-afternoon Saturday was good for Utah County.

### Outlook

The forecast calls for little change pollution levels with a clearing index of 1,000 plus and there is little change in the trend.

### Friday's Highs

North Provo . . . . .oz...44.....good  
Lindon . . . . .pa...58moderate  
Downtown Provo .co...14.....good

### The Scale

0-50 good air; 51-100 moderate; 101-199 unhealthful; 200-299 very unhealthful; 300 and above hazardous.

### Abbreviations

co = carbon monoxide  
oz = ozone  
so = sulfur dioxide  
pa = particulates

to: The Daily Herald, P.O. Box 717, Provo, Utah 84603-0717.

### NEWSSTAND PRICE

Daily  
Weekdays and Saturday . . . . . \$ .50  
Sunday . . . . . \$1.25

### SUBSCRIPTION RATES

Monthly  
City zone . . . . . \$9.00  
Rural or motor route\* . . . . . \$9.25  
Mail, in USA . . . . . \$13.00

One Year  
City zone . . . . . \$108.00  
Rural or motor route\* . . . . . \$111.00  
Mail, IN USA . . . . . \$156.00

\*Rates may differ outside Utah County

**Guaranteed delivery:** Your newspaper should arrive by 5:30 p.m. on weekdays and 7:30 a.m. on weekends. If you do not receive your paper, please call 375-5103 by 7 p.m. weekdays and 11 a.m. on weekends. Delivery is guaranteed.

**For new subscriptions,** restarts, home delivery information, cancellations or billing information, call 375-5103 weekdays from 8:30 a.m. to 5:30 p.m.

Member: Audit Bureau of Circulation

### ADVERTISING

To place a **want ad**, call 373-6450 between 8:30 a.m. to 5:30 p.m. weekdays.

**For retail display** or commercial classified advertising, call 344-2946 or 344-2945. The fax number for advertising materials is 374-5489.

### NEWS

We welcome **news tips**. To report a tip or if you have a comment or question regarding a news article, call 344-2543.

### DEPARTMENT HEADS

Kirk Parkinson . . . . . Publisher  
Paul C. Richards . . . . . Editor  
Mike Stansfield . . . . . Advertising Director  
Clark Linford . . . . . Business Office Manager  
Larry Hatch . . . . . Circulation Director  
Brian Tregaskis . . . . . Prepress Manager  
Steve Steele . . . . . Pressroom Foreman

### OFFICE HOURS

16 Inch, Reg. 44.99, Only . . . . . 2

**DECORATIVE BOTTLES**

Asst. Values to 3.99 . . . . . 1

**WATER CAN**

Hilmark #100470 with Kitchen Tools . . . . . 11



Deluxe Por

**BBQ**

Reg.

**BUTANE LIGHTER**

Multi-Use Refillable, 4.99 Value . . . . . 99

**OUTDOOR RESIN CHAIRS**

Durable Heavy Duty, Reg. 7.99, White/Green . . . . . 4

**PROPANE FUEL**

Coleman 16.4 oz. Reg. 2.99 . . . . . 1

**CHAISE LOUNGE**

Outdoor, Reg. 14.99 . . . . . 7



Men's TEXAS

**WESTERN**

(Tan, Black, Gray)

**REAM'S BO**

**TEXAS BO**

Children's Sizes (8-14)

**SHORTS & TOPS**

Levi's, Outlaw, Wrangler, Gimme . . . . . ON SALE

**CONVERSE**

Leather, Mid Cut Styles . . . . . 29

**SNACK**

# CANALS:

(Continued from Page A1)

The canal is partially fenced as it passes through the area, mostly by residents' backyard fences.

But other parts have no fencing, and many gates on the canal roads are wide open.

Brown's son and his friends got to the canal by going through a friend's backyard.

"I want to know who is responsible for fencing the canal," Brown said.

From the legal point of view, no one is.

In a case filed against Orem after a drowning in a canal in the city, the Utah Supreme Court decided in 1987 that canal owners and operators could not be held liable for drownings because of the need for water in a desert state.

The only way a canal owner could be liable is if there is a hidden danger in the waterway that is not normally associated with canals, the court ruled.

"Although this may change in the future, Utah courts have consistently refused to find canal companies liable for injury or death caused by dangerous conditions associated with a canal," Deputy Orem City Attorney Greg Stephens wrote in his legal review of the issue. Stephens conducted that review when city residents demanded that locked gates be installed on the Murdock Canal bank when a bridge was built at 1200 North in 1995.

Residents living in the Country Creek subdivision argued that unlocked gates would allow children to wander on the canal bank, fall in and drown.

The Provo River Water Users Association and the U.S. Bureau of Reclamation said the gates had to be left unlocked to allow maintenance and emergency crews unimpeded access to the waterway. The PRWUA relied on the legal arguments waiving liability, plus the fact that the canal was there before the houses.

The issue was resolved when the city agreed to install mechanical gates.

The BOR and PRWUA officials say they are not insensitive to the concerns, but the groups have to balance safety against legal and budgetary concerns.

"We try to discourage it," Jay Henrie, manager of the U.S. Bureau of Reclamation's Resource Management division, said of people who come dangerously close to the canal.

The canals are posted as government property, and unauthorized vehicles and people are barred from the banks.

"We do what we can to protect the public, but people have built

around the canal," Henrie said.

The BOR has pushed for legislation to require fencing along the canals, but the federal government decided that was a local concern.

Also, fencing the entire 23-mile Murdock Canal alone would be costly, especially on the BOR's limited budget, Henrie said.

The PRWUA is responsible for some of the safety issues associated with the canal as part of its agreement to operate the waterway.

Harley Gillman, a PRWUA board member, said the association's attorney warned that taking steps to fence the canal could actually increase water users' liability if someone does get in and drown.

"I'd feel bad if someone drowned in the canal," Gillman said. However, he said, the water users have to minimize their legal liability, as well.

He said the PRWUA has a master plan that calls for eventually covering over the canal. But that project costs \$53 million and is far down the list of capital priority projects.

Henrie said the BOR has taken some steps to warn children to the dangers posed by irrigation canals.

Last year, the bureau kicked off its "Otto Otter" safety program. Otto, an otter wearing an old-fashioned bathing suit, warns children of the dangers posed by canals and warns them to stay back.

The program consists of coloring books featuring Otto demonstrating water safety techniques, signs by the canal depicting Otto holding a stop sign and having a BOR employee dress up as Otto for school programs.

Otto also appeared in last year's America's Freedom Festival Grand Parade, riding with Smokey Bear and Woodsy Owl on a BOR float.

Henrie said the program is given at the request of local schools.

But Jerry Smith, assistant principal at Orchard Elementary School, where the program was first conducted last year, said Otto has not made an appearance this school year.

"We expected them," Smith said.

Gillman and Henrie said the best solution is to have all involved parties working together on common solutions.

"I personally think developers have a lot they can do. The city has control over developers," Henrie said.

Orem Senior Planner Bob Moore said the city requires developers building adjacent to canals to put fences up. The fences must also come completely to the ground to keep children from crawling under.